

**MINUTES OF THE MEETING
OF THE
BOARD OF PHYSICAL THERAPY
August 14, 2006**

CALL TO ORDER

Dr. Wayne Stuberg, Chairperson, called the meeting of the Board of Physical Therapy to order at 9:01 a.m., August 14, 2006 in Conference Room 6-Y, State Office Building, 301 Centennial Mall South, Lincoln, Nebraska. The meeting was duly publicized by distribution of the Notice of Meeting and Agenda ten (10) days prior to the meeting and positing the agenda at the entrance of the Department of Health and Human Services Regulation and Licensure at least twenty-four (24) hours prior to the meeting.

Roll Call

The following board members and State of Nebraska staff members were present:

Wayne Stuberg, Chairperson, Professional Member
Kent Dunovan, Professional Member
Susan Jeffrey, Secretary, Professional Member
Raymond Frew, Public Member

Diane Hansmeyer, Section Administrator
Patty Pierson, Credentialing Coordinator
Julie Agena, Assistant Attorney General
Loretta Bennett, Investigator
Duane Newland, Investigator
LaDonna Shippen, Policy Analyst and Regulation Coordinator
(arrived 11:55 a.m., exited 12:20 p.m.)

Adoption of the Agenda

Stuberg moved, seconded by Dunovan to adopt the agenda. Voting aye: Stuberg, Jeffrey, Frew, and Dunovan. Voting nay: none. Motion carried.

Approval of Minutes

Stuberg moved, seconded by Jeffrey to approve the minutes of the June 12, 2006 meeting. Voting aye: Frew, Dunovan, Stuberg, and Jeffrey. Voting nay: none. Motion carried.

INVESTIGATIONAL REPORTS (Closed Session)

Stuberg moved, seconded by Jeffrey to go into closed session at 9:04 a.m. for the purpose of hearing investigational reports and protecting the reputation of individuals. Voting aye: Frew, Dunovan, Stuberg, and Jeffrey. Voting nay: none. Motion carried.

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Out of Closed Session

Stuberg moved, seconded by Dunovan to come out of closed session at 10:15 a.m. Voting aye: Stuberg, Jeffrey, Frew, and Dunovan. Voting nay: none. Motion carried.

Bennett and Newland left the meeting at 10:15 a.m.

Return to Closed Session

Jeffrey moved, seconded by Stuberg to return to closed session at 10:16 a.m. to discuss a licensure application and to protect the reputation of individuals. Voting aye: Frew, Dunovan, Stuberg, and Jeffrey. Voting nay: none. Motion carried.

Out of Closed Session

Jeffrey moved, seconded by Stuberg to come out of closed session at 10:35 a.m. Voting aye: Frew, Dunovan, Stuberg, and Jeffrey. Voting nay: none. Motion carried.

LICENSING OF BIOFEEDBACK AND NEUROTHERAPY PROFESSIONALS

Hansmeyer read a memorandum to the board to inform them of the activities of The License Commission of The Americas (TLCTA). This commission is prepared to work with any established licensing board to expand the scope of practice for their profession to include any of the professional areas that TLCTA intends on licensing. TLCTA is also prepared to work with established licensing boards to control the unlawful practice of their profession by any person licensed, or eligible to be licensed, by TLCTA.

PHYSICAL THERAPY CONVICTION GUIDELINES REVIEW

Hansmeyer presented copies of the current Conviction Guidelines for the Board of Physical Therapy to the board for its review. Hansmeyer said it was important to recognize that while the board has current guidelines, the board should note that these are guidelines and not actions that should be construed as required recommendations. Each case discussed by the board has its own unique set of circumstances that should be addressed. The guidelines should be regarded as an historical review of actions relating to misdemeanor convictions.

Shippen entered the meeting at 11:55 a.m.

REGULATION REVIEW

Discussion from Proposed Regulation Task Force Meetings

Jeffrey's meeting was held on July 25, 2006 in Grand Island, Nebraska and Dunovan's on July 26, 2006 in Scottsbluff, Nebraska for the purpose of gathering input from physical therapists and physical therapy assistants regarding the amended regulations 172 NAC 137 relating to the Practice of Physical Therapy. Stuberg's meeting in Omaha, Nebraska will be on August 22, 2006. The attendees had an opportunity to openly discuss questions and comments regarding several sections of the amended regulations, which

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will effect how they practice. The following questions and comments were discussed for the board's consideration:

- What is the distinction between direct supervision and the previous on-site supervision, relative to the Physical Therapy Aide?
- How is the word "immediately" being defined as it relates to the supervision of aides?
- Can therapists develop a rehabilitation diagnosis and use that term to describe their plan?
- There is not a lot of support in certain parts of the state regarding continuing education hours that do not have a direct effect on patient care.
- Is direct supervision more restrictive than on-site supervision?
- Supervisors need to set up mechanisms on how they document who they are supervising.

A board meeting will be scheduled for October 30, 2006 to continue the discussion of the draft regulations and finalize the changes that need to be made. The draft of the proposed regulations will go to the Regulatory Analysis and Integration Division (RAID) about November 6, 2006. The board will then finalize the regulations at its November 27, 2006 meeting. A public hearing should then occur sometime in January. A board meeting to discuss any comments from the public hearing will be scheduled sometime in January or February.

On-going Review

Hansmeyer said that the board will need to examine the regulations in totality to ensure that all needed changes have been made and that items/sections are appropriately placed within the chapter.

Recess at 12:20 pm.

Shippen left the meeting at 12:20 p.m.

Meeting reconvened at 12:45 p.m.

OLD BUSINESS

There is no old business.

NEW BUSINESS

Approval of CAPTE Programs

Hansmeyer said the agenda entry was incorrect and should have been listed at "Jurisdiction On-Line Multi-School Report." Hansmeyer presented this report to the board for informational purposes. This report is generated by the Federation of State Boards of Physical Therapy and gives statistical information of the pass rate of students attending Physical Therapy programs in the State of Nebraska.

Reaffirmation of Mail Ballots

Stuberg moved, and Jeffrey seconded the reaffirmation of the following mail ballots:

- Jill Jo Gregg - Reinstatement of Physical Therapy license after one-year revocation due to non-payment of renewal fees. Approved.
- Kristi Kleinsasser - Application for Physical Therapy licensure. Approved.
- Tammy Staab - Application to receive a Physical Therapy Assistant certification. Approved.

Voting aye: Frew, Dunovan, Stuberg, and Jeffrey. Voting nay: none. Motion carried.

Licensure Assistance Program (LAP) Report

Hansmeyer presented the Nebraska Licensee Assistance Program April 1, 2006 - June 30, 2006 Third Quarter Report (Attachment A). Hansmeyer pointed out that the All Inclusive Summary on the first page of the report includes information regarding all professions licensed, certified, or registered in the State of Nebraska. This quarterly report shows that there has been a 34% increase of individuals being directed by state licensing boards to receive drug and alcohol evaluations. Hansmeyer said the new Department Director of Regulation and Licensure, Dr. Joann Schaefer, M.D. recently attended a Credentialing Management meeting at which she expressed some of her views regarding individuals who are being disciplined. These investigations require board review. Dr. Schaefer told those in attendance that one of the professional boards had tracked its decisions and Dr. Schaefer's decisions and compared the two. Dr. Schaefer said she was told by the board that 92% of the time she agreed with its decisions. Dr. Schaeffer noted that all the boards are making their licensing decisions based on their professional expertise regarding their specific professions. Dr. Schaeffer said that she considers the boards' review process and subsequent decision, and then she looks at the total case. She estimated that 8% of the time she reaches a different conclusion because she considers a multitude of factors from a different perspective than that of the board members and that it is her job to look at it differently. Additionally, Dr. Schaefer said she believes that when a licensee's credential is placed on probation, she views this as an opportunity for that person to do the right thing in getting back on track to becoming the professional the State of Nebraska expects them to be.

Federation of Associations of Regulatory Boards (FARB) Meeting (October 6-8, Seattle, Washington)

The Federation of Associations of Regulatory Boards (FARB) is holding its 14th Annual Attorney Certification Seminar in Professional Regulatory Law in Seattle, Washington on October 6-8, 2006. Stuberg asked if this meeting would be useful for the Board of Physical Therapy. Hansmeyer said that FARB is gearing this particular meeting towards attorneys, so it may or may not be of value to our boards' professional members who are not attorneys. Having said that, Hansmeyer said that FARB holds an annual meeting that might be of value to the board, which is geared towards regulatory board members. She will present information to the board regarding this meeting when it becomes available.

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Federation of State Boards of Physical Therapy (FSBPT) Motions for 2006

There are three motions that Stuberg will be casting votes on behalf of the State of Nebraska's Board of Physical Therapy at the Federation's annual meeting in Portland, Oregon, September 8-10, 2006.

The first motion relates to adopting the Areas of Focus as listed below. These areas are used for long-term strategic planning and as the basis for funding Federation activities in each annual budget. Stuberg said the six areas of focus have remained the same the last couple of years. The areas are:

Examinations

Membership

States' Rights, States Responsibilities and Professional Standards

Education

Leadership

Organizational and Financial Stability

The second motion regards a Test Of English as a Foreign Language (TOEFL) Passing Standards and recommends adopting minimum recommended standard scaled passing scores for healthcare professionals in each of the four scoring domains (Listening, Reading, Writing, and Speaking) and the total score.

The third motion regards a Referring Source Gaining Financially. The Federation support of jurisdictions adopting statutory and rules language making it grounds for disciplinary action when licensees participate in physical therapy services in which the referral source has a financial interest dependent upon the revenue generated by the services.

Stuberg moved, seconded by Dunovan that the delegate votes as follows:

Support for Motion One

Support for Motion Two

Support for Motion Three

Voting aye: Jeffrey, Frew, Dunovan, and Stuberg. Voting nay: none. Motion carried.

Physical Therapy Assistant (PTA) Functions List

Dunovan moved, seconded by Jeffrey to remove the Physical Therapy Assistant (PTA) Functions List from the website because the document listed board decisions on PTA functions that were not based on past statutes and regulations. Voting aye: Frew, Dunovan, Stuberg, and Jeffrey. Voting nay: none. Motion carried.

MISCELLANEOUS

The next Board of Physical Therapy meeting has been scheduled for 9 a.m. on October 30, 2006 in Lincoln, Nebraska.

ADJOURNMENT

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Dr. Wayne Stuberger adjourned the meeting of the Board of Physical Therapy at 2:12 p.m.

Respectfully submitted by: _____
Raymond Frew, Secretary

Prepared by: Patty Pierson, Credentialing Coordinator